

**Notice of Allowability**

Application No.

10/072,990

Applicant(s)

BIRCH ET AL.

Examiner

Art Unit

William H. Rodriguez

3746

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/13/04.
2. ☒ The allowed claim(s) is/are 1,2,5-56 and 58-62.
3. ☒ The drawings filed on 24 May 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. Claims 1, 2, 5-56 and 58-62 are allowed.

With respect to claim 1, applicant arguments presented *on page 18 the third full paragraph* of applicant's response are found persuasive. Thus, claim 1 and its dependent claims are allowed.

Claims 6, 8-10, 26, 33, 40, 42, 44 and 45 were indicated to be allowable in the previous office action.

Previously objected claims 16, 22 and 24 have been re-written in independent form. This claims 16, 22 and 24 are allowed.

With respect to claim 58, applicant arguments presented *on page 19 the third paragraph* of applicant's response are found persuasive. Thus, claim 58 and its dependent claims are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

## **EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

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### **Claims**

The claims will be renumbered in the issued patent as follows.

Old Claim #→New Claim #

1→1; 2→2; 5→10; 6→18; 7→11; 8→19; 9→20; 10→21; 11→22; 12→23; 13→12;  
14→13; 15→14; 16→47; 17→24; 18→3; 19→6; 20→8; 21→9; 22→48; 23→7; 24→49;  
25→25; 26→50; 27→51; 28→15; 29→16; 30→26; 31→27; 32→28; 33→29; 34→30; 35→31;  
36→32; 37→33; 38→34; 39→35; 40→36; 41→4; 42→52; 43→5; 44→53; 45→54; 46→17;  
47→37; 48→38; 49→39; 50→40; 51→42; 52→43; 53→44; 54→44; 55→45; 56→46; 58→55;  
59→56; 60→57; 61→58; 62→59.

### ***Contact information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Rodriguez whose telephone number is 703-605-1140.

The examiner can normally be reached on Monday-Friday 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R Yu can be reached on 703-308-2675. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

W.R.

W.R.

  
JUSTINE R. YU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

6/10/04